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Chapter 8: Article Seven: Documents of Title

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C H A P T E R 8

Article Seven: Documents of Title

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§8.1. **General.** Article 7 consolidates and revises the Uniform Warehouse Receipts Act, the Uniform Bills of Lading Act, and Sections 29 through 40 of the Uniform Sales Act.¹ It does not affect the criminal provisions of the Uniform Warehouse Receipts Act, Sections 50-55, or the Uniform Bills of Lading Act, Sections 44-50, which remain in effect.² Certain provisions of the Uniform Bills of Lading Act dealing with rights between buyer and seller are replaced in Article 2 on Sales rather than in Article 7.³

Article 7 changes the structure and phrasing of the prior statutes quite extensively but there seem to be few important changes of substance. A number of changes are made to conform to the Federal Bills of Lading Act.⁴ Several provisions cover subjects not included in the old acts: Sections 7-102 (1) (d) and (g), 7-502 (1) (d) and 7-503 (2) on delivery orders, Section 7-302 on through bills of lading, Section 7-305 on destination bills of lading, and Section 7-503 (3) on bills of lading issued by freight forwarders.

The New York Law Revision Commission commented on "a significant change in the concept of 'due negotiation' and some important new exceptions to the doctrine of *caveat emptor* Apart from these innovations, Article 7 makes relatively few basic changes in present law."⁵ The 1956 revision seems not to have introduced significant further innovation; the tendency was rather to reduce the change from prior law.

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§8.1. ¹ The section numbers given in this chapter, unless otherwise indicated, are those in the Uniform Acts as promulgated by the National Conference of Commissioners on Uniform State Laws. The acts referred to, until their repeal by the Code takes effect, are found in G.L., cc. 105, 106, 108. Uniform Sales Act §§29-40 were deleted by Acts of 1918, c. 257, and replaced by G.L., c. 106, §29.

² G.L., c. 105, §§55-64; c. 108, §§42-48.

³ Compare UBLA §10 with UCC §2-605 (2); UBLA §40 with UCC §§7-509, 2-401, 2-403, 2-503, 2-505; UBLA §39 with UCC §2-514 and Article 4 (Part 5).

⁴ 49 U.S.C. §§81-124 (1952); UCC §§7-301, 7-302, 7-309 and Comments.

⁵ N.Y. Legis. Doc. No. 65(A), pp. 38, 53-56 (1956), commenting on UCC §§7-205, 7-208, 7-209, 7-307, 7-308, 7-501 (4), 7-502, 7-503.

§8.2. The bailee's lien. In the Pennsylvania Code, both warehousemen and carriers were granted specific liens for charges with respect to the very goods on which the lien is claimed; charges on other goods and other obligations were left to the law of pledges.¹ At the same time the specific liens were made effective against the owner even though the goods were stored or shipped by a thief. Warehouse representatives objected to the absence of provision for a general lien covering the balance due from a customer, and the New York Law Revision Commission disapproved the provisions as to deposit by a thief, except in the case of a common carrier obligated by law to receive goods for transportation. The revised Code in Massachusetts therefore follows the prior law in granting the warehouseman a general lien, and in limiting the validity of the lien to cases where a pledge would have been valid.² As to common carrier liens, the Massachusetts Code follows the view expressed by the New York Commission.

§8.3. Burden of proving negligence. Section 7-403 (1) places upon the bailee the burden of establishing any of seven listed excuses, including "damage to or delay, loss or destruction of the goods for which the bailee is not liable." At the urging of carrier representatives, the Editorial Board in 1956 inserted an optional clause limiting the quoted language: "but the burden of establishing negligence in such cases is on the person entitled under the document." The Board explained that the optional clause stated the rule laid down for carriers in many federal cases, and resolved a conflict of state decisions as to both carriers and warehousemen.¹ Since the optional language was contrary to prior law in Massachusetts, it was omitted from the Massachusetts Code.²

§8.4. Due negotiation: Caveat emptor. The definition of due negotiation in Section 7-501 (4) has been changed from the Pennsylvania version in four respects: (1) Reference to "reasonable commercial standards" as included in the requirement of good faith has been deleted to conform with changes elsewhere in the Code, particularly in Article 3 on commercial paper. (2) A requirement of purchase "without notice" of a defense or claim has been added. (3) The requirement of "current" course of business or financing has been changed to "regular" course to avoid any implication of a time factor or of a requirement of new value. (4) Receipt of a document in settlement or payment of a money obligation has been excluded.

The result of these changes is to make the Code conform more closely to the traditional requirements of good faith, absence of notice and value. The innovations remaining are the requirement of "regu-

§8.2. ¹ UCC §§7-209, 7-307 (1952 ed.).

² UWRA §28; *Harbor View Marine Corp. v. Braudy*, 189 F.2d 481 (1st Cir. 1951).

§8.3. ¹ See 1956 Recommendations of the Editorial Board for the Uniform Commercial Code, Section 7-403, Reason.

² *Rudy v. Quincy Market Cold Storage and Warehouse Co.*, 249 Mass. 492, 144 N.E. 286 (1924).

lar course" and the exclusion of the settlement of money obligations; both are inroads on the protection of the bona fide holder. At the same time, once the requirements of due negotiation are met, Sections 7-502 and 7-503 strengthen the holder's legal position. Due negotiation cuts off not only the rights of prior holders of the negotiable document, but also the rights of any person who entrusted the goods to the bailor with power to ship, store or sell. Thus if goods are entrusted to a merchant who deals in goods of that kind, the merchant can cut off the entruster's rights by storing the goods under a negotiable warehouse receipt and duly negotiating the receipt. This result was called a "significant inroad on the rule of *caveat emptor*" by the New York Law Revision Commission.¹

§8.4. ¹ See §8.1. *supra*, note 5.